SA2005RF0086, AMDT. #1-S

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Office of the Attorney General
ATTN: Initiative Coordinator
1300 I Street
Sacramento, CA 95814

Gentlemen:

I am submitting, herewith, an amendment to the initiative that was mailed to your office on June 8, 2005.

The amendment is substantive. It includes additional Sections 6 thru 22, inclusive.

Very truly yours,

Paul McCauley, CPA

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SECTION 1. WEALTH TAX. The State of California adopts United States Internal Revenue Code As Amended Through December 1, 2004, Sections 2001 through 2704, inclusive, except as hereinafter provided, and makes them a part of the California Revenue and Taxation Code, effective January 1, 2007, or as soon thereafter as provided by law. Wherever the Internal Revenue Code Sections 2001 through 2704, inclusive, use the term "executor" or "decedent" or any combination thereof, the term "taxpayer" shall be substituted therefor. The date January 1, 2006 shall be substituted wherever the term "time of death" or "date of death" or a similar term is used.

(A) Section 2001(a) is amended to read: A tax is hereby imposed on the taxable estate of every person who is a resident of the State of California on January 1, 2006. This tax is applicable to individuals, natural persons, only.
(B) Section 2002 is amended to read: The tax imposed by this chapter shall be paid by the taxpayer.
(C) Section 2010(a) is amended to read: A credit of the applicable credit amount shall be allowed to the estate of every taxpayer against the tax imposed by section 2001.
(D) Section 2010 © is amended to read: The applicable credit amount shall be $20 million.
(E) Section 2031(a) is amended to read: The value of the gross estate of the taxpayer shall be determined by including, to the extent provided for in this part, the value on January 1, 2006 of all property, real or personal, tangible or intangible, wherever situated.
(F) Section 2033 is amended to read: The value of the gross estate shall include the value of all property to the extent of the interest therein of the taxpayer on January 1, 2006. Minority interest or lack of marketability discounts shall not diminish the value of any item included in the gross estate.
(G) Section 2055 is stricken in its entirety.
(H) Section 2056 is stricken in its entirety.
(I) Section 2056(A) is stricken in its entirety.
(J) Section 2057 is stricken in its entirety.
(K) Section 2058 is stricken in its entirety.
(L) Sections 2201 through 2210, inclusive, are stricken in their entirety.
Chapter 12 (Gift Tax) and Chapter 13 (Tax on Generation-Skipping Transfers) are stricken in their entirety.

SECTION 1.1. *Hasta la Vista Provision.* Every person who abandons his or her residency in the State of California, at any time after July 1, 2005, who has or had been a resident of California for five years or more as of July 1, 2005, continuously or at any time, shall be liable for the tax under Section 1.

SECTION 2. Every person liable for tax pursuant to this measure shall make a declaration thereof on a tax return (CAL 706) and shall timely file the tax return on or before September 30, 2007. An extension of time for up to six months may be granted on a showing of need, but at least 50% of the tax ultimately determined to be due must be paid with the application for extension to file, or the extension request will be considered invalid.

SECTION 3. The tax payable pursuant to SECTIONS 1 and 2 shall be payable, as follows: One-half shall be paid on September 30, 2007 and the remaining one-half shall be paid on September 30, 2008. The tax shall be payable to the general treasury of the State of California. The penalties for a taxpayer's failure to timely file a personal income tax return, to timely pay the taxes due thereon and the penalties for filing a false or misleading personal income tax return shall be applicable to SECTION 2.

SECTION 4. There shall be allowed a credit, refundable if the credit exceeds the tax liability due on the final personal income tax return of the decedent, of every California resident whose estate pays a tax to the United States pursuant to Internal Revenue Code Section 2001. The credit shall be determined by recalculating the tax due under the Internal Revenue Code, Sections 2001 and 2010, as if the taxpayer were entitled to a unified credit of $4,500,000. The taxpayer shall be entitled to a credit under the California Revenue and Taxation Code equal to the lesser of the actual tax paid to the United States or $4,500,000 but in no case shall the credit exceed the actual taxes paid to the United States. The lawful right to the credit is that of the heirs, alone, not that of the decedent. The right to the credit accrues only upon the date of filing of the final personal income tax return of the decedent.

SECTION 5. There shall be allowed a credit, refundable if the credit exceeds the tax liability of the taxpayer, for an amount equal to the rent loss sustained by any owner of rental property in California, where such rental property is subject to a rent control ordinance of any kind. The rent loss is defined herein as the gross rental dollars that would have been received by the owner of the property, during his or its tax year, except for limitations imposed on the allowable rental charge pursuant to the ordinance. In no circumstances shall a rental loss be computed in respect of rental units that are wholly or partially vacant. Any taxpayer claiming a rental loss tax credit pursuant to this part that exceeds by 20% or more the amount of loss finally determined by the taxing authorities or any reviewing body of competent jurisdiction, or agreed upon by the taxpayer, shall forfeit the entirety of the credit for that tax year.

SECTION 6. The following sections of the California Revenue and Taxation Code are stricken in their entirety:

13301, 17039.1, 17041(h), 17048, 17052.2, 17052.60, 17052.80, 17052.10, 17053.6, 17053.7, 17053.12, 17053.14, 17053.30, 17053.33, 17053.34, 17053.36, 17053.37, 17053.42, 17053.45, 17053.46, 17053.47, 17053.49, 17053.5(j), 17053.57, 17053.70, 17053.74, 17053.75, 17053.84, 17054, 17054.1, 17054.5, 17054.7, 17057.5, 17058, 17062, 17062.3, 17063, 17073.5, 17077©, 17083, 17504, 17506, 17507, 17507.6, 17508, 17509, 17510;

Chapter 2.5 (Alternative Minimum Tax for Corporations), 23400 through 23459, inclusive, 23361©; 23362 – the term(s) "common carrier by railroad" and "common carriers by railroad" are stricken wherever they appear, 23604, 23608, 23608.2, 23608.3, 23609, 23610, 23610.4, 23610.5, 23612.2, 23617, 23617.5, 23621, 23622.7, 23622.8, 23624, 23630, 23633, 23634, 23636, 23637, 23642, 23645, 23646, 23649, 23657, 23684;

23701(a), 23701(b) and 23701(c) are stricken;

23703, 23771-23778, inclusive are stricken, except as provided by SECTION 15, below. (It is the intent of this part that the determination of nonprofit status and all enforcement activities with respect to nonprofit organizations will be the responsibility of the Internal Revenue Service alone and to eliminate the duplicate filing and enforcement activities which are an oppressive and unnecessary burden on the taxpayers and organizations involved);

SECTION 7. Revenue and Taxation Code Section 23153(d)(1) is amended to read: "corporations subject to the minimum franchise tax shall pay annually to the state a minimum franchise tax of two hundred fifty dollars ($250).

SECTION 8. For all taxpayers, gains and losses from the sale, exchange or other taxable disposition of property shall be determined under the relevant provisions of the Internal Revenue Code. This section applies as well to the recognition of all passive-activity gains and losses, including limitations on the annual deductible amount. Distributions from deferred compensation accounts, including but not limited to, Individual Retirement Accounts, Keogh Accounts, and all such similar deferred compensation accounts, shall be reportable on the taxpayer's California Personal Income Tax Return as under his United States Income Tax Return.

SECTION 9. For all taxpayers, deductions for depreciation, cost recovery, amortization or any like method of cost allocation or depletion, shall be determined under the relevant provisions of the Internal Revenue Code.

SECTION 10. Revenue and Taxation Code Section 23151 is amended to provide that the tax rate on every corporation described therein will be the greater of 4% of its net income or the minimum tax prescribed in Section 23153 for taxable years beginning on or after January 1, 2006.

SECTION 11. Revenue and Taxation Code Section 17041.5 is amended, as follows: The second paragraph is stricken, which reads:

> "This section shall not be construed so as to prohibit the levy or collection of any otherwise authorized license tax upon a business measured by or according to gross receipts."

SECTION 12. Revenue and Taxation Code Section 17053.5 is amended as follows: The credit amount that is provided for in section 17053.5(a)(1)(A) shall be $1,000. The credit amount provided for in 17053.5(a)(1)(B) shall be $1,000.

SECTION 13. Revenue and Taxation Code Section 19371(a) is amended to read (in part):

"At any time within 6 years after the determination of liability for any tax….."

19371© is added to read: "It is the intent of this part that there be a statute of limitations of 6 (six) years in which to collect any tax covered by this part. This part shall apply as if it had always been the law."

SECTION 14. Revenue and Taxation Code Sections 17041(a) and (c) are amended to provide for a separate, additional tax, in addition to the taxes provided for therein, in the amount of 6% of the taxpayer's taxable income for taxpayers whose adjusted gross income exceeds $250,000 for taxpayers filing joint returns or $200,000 for single taxpayers and taxpayers filing as head of household. For married taxpayers, the provisions of section 17045 shall apply to this section.

SECTION 15. Notwithstanding SECTION 6 of this measure, the following organizations shall remain liable for filing exempt organization returns pursuant to Revenue and Taxation Code 23771 through 23778, inclusive, and shall further be entitled to declare a refundable tax credit thereon, annually, in the following amounts:

The Center For The Improvement of Child Caring (23-7385759) 11331 Ventura Boulevard, Suite 103 Studio City, CA 91604-3147	$15,000,000
The Nature Network, Inc. (95-4218169) 3145 Coolidge Avenue Los Angeles, CA 90066	$ 2,500,000
People's Advocate (94-2514755) 3407 Arden Way Sacramento, CA 95825	$ 7,500,000

To the extent that the credit provided by this part exceeds any taxes otherwise payable by the organization, the Franchise Tax Board shall pay the difference to the organization within sixty (60) days of the filing of its return. It is the intent of this part that the credits provided for herein be payable April 1, 2007, in the first instance, and on or about April 1 of each year thereafter.

SECTION 16. There shall be allowed to all persons who teach, in a qualified institution or facility in California, a refundable tax credit in the amount of 30% of the total remuneration received during the year for providing teaching services. The maximum remuneration to be taken account of shall be the annual wage-base limit in a given year pursuant to the Federal Insurance Contributions Act (commonly called the social security contribution wage base).

Eligibility for the refundable credit is not limited to credentialed teachers alone, but is allowable to all persons who teach in any institution of higher learning in California, public or private, and to those who teach in a kindergarten, elementary, secondary or vocational-technical school located in California, public or private.

The credit, to the extent it exceeds the "net tax" otherwise provided for by section 17039, is refundable upon the filing of the taxpayer's personal income tax return for the year.

This section is to be broadly construed to accomplish its purpose of providing a substantial supplement to the annual compensation of those engaged full or part-time in the honorable profession of teaching. Its further purpose is to elevate the compensation levels of professionals who have heretofore not been compensated as professionals.

If any court of competent jurisdiction finds that any part of this section is unconstitutional on the basis of a violation of the doctrine of church-state separation, then this section shall not apply to persons or groups of persons whom the court finds to be ineligible, but shall remain valid for all other persons covered by this section.

SECTION 17. There shall be allowed to all persons who pay tuition or fees to a public institution of higher learning in California, a refundable tax credit in an amount equal to 85% of the tuition or fees paid during the year, up to the following amounts of tuition or fees:

The Universities of California (Undergraduate)	$ 8,000
The Universities of California (Graduate and Professional Schools)	$18,000
The California State Universities and Colleges	$ 4,000
Any Community College in California	$ 1,000

The taxpayer who pays the tuition or fees is the one who is entitled to claim the credit. Amounts reimbursed by loans, grants, scholarships, fellowships, gifts and the like are not eligible for the credit. No family or kinship relationship between the student-attendee and the taxpayer claiming the credit need be established.

SECTION 18. A refundable tax credit of $5,000 shall be allowed to the estate of any decedent whose body organs were donated and accepted for transplantation purposes. This part intends that donations of hearts, kidneys, pancreas, livers and other vital organs and reusable body parts will be encouraged to donate them due to the availability of this credit. The credit may be claimed on the final income tax return of the decedent.

SECTION 19. Individuals who have no health insurance coverage may purchase a health insurance policy and receive a refundable tax credit of 85% of the cost of the health insurance policy. A maximum refundable credit of $8,000 shall be allowed per household –husband, wife and children, unmarried taxpayer and dependents, or any similar family unit. A taxpayer must be a lawful resident of California to claim the credit. For purposes of this part, Medicare coverage is considered to be insurance coverage; MediCal and Medicaid are not considered to be insurance coverage. In place of the tax credit provided by this part, the Legislature may establish a policy or policies of health insurance (a minimal or specified package of benefits) and require eligible taxpayers to accept a voucher in lieu of the tax credit with which to purchase same.

Taxpayers who are covered by Medicare may purchase up to one additional "medigap" policy and receive a 50% refundable tax credit for the cost of that policy. A maximum refundable tax credit of up to $2,500 per taxpayer is allowed by this part. In place of the tax credit provided for by this part, the Legislature may establish a policy or policies of health insurance (a minimal or specified package of benefits) and to require eligible taxpayers to accept a voucher in lieu of the refundable tax credit with which to purchase same.

Taxpayers who pay premiums under Medicare Parts A or B, or both Parts A and B, shall be allowed a refundable credit equal to 85% of such premium(s).

SECTION 20. A taxpayer who is liable for and pays property taxes on his or her personal residence shall be allowed a refundable tax credit, for the amount that the property taxes exceed 1% of the taxpayer's adjusted gross income, not to exceed $5,000. The credit so allowed is refundable if it exceeds the taxpayer's tax liability. Adjusted gross income for purposes of this part is to be increased by all income that is otherwise exempt from tax under the Revenue and Taxation Code. Only lawful residents of the State may claim this credit. Married individuals may claim this credit only on the filing of a joint income tax return for the year the credit is claimed.

SECTION 21. Except as otherwise provided for herein, the provisions of this measure will be effective for fiscal years beginning on or after January 1, 2007.

SECTION 22. SEVERABILITY. If any chapter, article, section, subsection, clause, sentence or phrase of this part which is reasonably separable from the remaining portions of this part, or the application thereof to any person, taxpayer or circumstance, is for any reason determined unconstitutional, such determination shall not affect the remainder of this part, nor, will the application of any such provision to other persons, taxpayers or circumstances, be affected thereby.